

The mythology of male rape

Social attitudes and law enforcement

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INTRODUCTION: MALE RAPE AS A SOCIAL AND LEGAL ISSUE

In the last two decades, adult male rape and sexual assault have been the subject of a 'knowledge explosion' akin to the increase in research concerning female rape and child sexual abuse in the 1970s (Kelly 1988: 43). Scholarly responses have contributed greatly to our understanding of the prevalence, dynamics, nature and impact of adult male rape. This work has examined such issues as the problem of male sexual victimization within institutional settings (Banbury 2004; O'Donnell 2004), within the general population (Coxell et al. 1999; Sorenson et al. 1987), during wartime (Sivakumaran 2007), and within the gay community (Hickson et al. 1987; Kendall and Martino 2006). It has also explored the nature, dynamics and impact of male victimization (Light and Monk-Turner 2008; Walker et al. 2005a; Walker et al. 2005b; Allen 2002; Mezey and King 2000), including comparative analysis of male and female rape (Elliott et al. 2004). Male rape has a long recorded history (Jones 2000) and recent research provides detailed information on social and legal attitudes to this problem as far back as the seventeenth century (Sommer 2000: Ch. 4). Of particular relevance to this chapter, there has been a growth in research examining the treatment of male rape by the criminal law and criminal justice system, including the views and perceptions of criminal justice professionals (Saunders 2009; Abdullah-Kahn 2008) and victims (Jamel et al. 2008; Rumney 2008; Rumney 2001). Questions have also been raised concerning whether male victims suffer a form of secondary victimization within the criminal justice system, resulting from issues linked to sexuality and, in particular, homosexuality (White and Robinson Kurpius 2002; Anderson and Doherty 2008; Rumney 2009).

This chapter seeks to explore the extent to which social attitudes towards male rape are influenced by myths, misunderstandings and stereotypes. It draws on focus group research, conducted by the authors, which attempts to ascertain perceptions of male rape complainants and defendants by the use of fictional vignettes containing factual variables. This specific research builds on earlier focus group work (Anderson and Doherty 2008), by examining a

series of factual variables that have not previously been considered in attitude research involving male rape. Given the amount of data generated by the focus group discussions, an exhaustive examination of these discussions is precluded. Consequently, this chapter will examine several specific issues. First, we examine the effect of complainant resistance and injury on participants' perceptions of his credibility. Secondly, we consider the use of sexuality and intoxication to judge complainant credibility, as well as the potential blameworthiness of the defendant in the vignette. Finally, building on work involving female rape complainants, this chapter explores possible linkages between the attitudes exhibited by the focus group participants and the wider criminal justice process.

RESEARCH DESIGN

The primary aim of this research was to explore student attitudes towards adult victims and perpetrators of male rape through the use of vignettes featuring an alleged incident of male sexual assault (Davies et al. 2006; Anderson and Doherty 2008). Research studies which utilize hypothetical scenarios or vignettes have been accused of lacking ecological validity. In response, however, Davies et al. (2006) have argued that this technique has been useful in uncovering attitudes towards female victimization and, as such, can be effectively applied to the study of male victimization. Without trivializing the limitations of this methodology, we would similarly argue that the findings of this experimental study yield important insights.

Student participants in the present study were informed about the research through an electronic conferencing system attached to compulsory undergraduate Criminology modules, staff announcements in lectures and seminars, and email communications. There are a number of advantages to utilizing an opportunity sample derived from a student group (Jupp 1989; Davies et al. 2006; Bryman 2008). Most notably, for the purposes of this research, it ensures that participation in the research is voluntary and that participants are able to provide informed consent. Students decided which focus group session to attend. There was no attempt to seek to control, for example, the male/female mix of focus group participants. The self-selection approach resulted in four focus groups, which included male only (groups 1, N = 2; and 4, N = 3), female only (group 2, N = 7) and mixed group discussions (group 3, N = 6). Given that the study involved a small number of participants (18), a level of caution is clearly appropriate when considering the general application of the findings outlined below.

The focus group discussions were recorded and there were no researchers present. This was particularly important as it encouraged honest and open discussion of the vignette and minimized the impact of the student/academic relationship on participant responses. Each focus group lasted for 50 minutes. Focus group discussions were conducted at the university in order to provide a setting within which participants would feel comfortable

and familiar (Hamby and Koss 2003). Owing to the sensitivities of the subject-matter, participants were fully informed of the nature, purpose and likely outputs from the research process. Participants completed a consent form and were advised that they could withdraw from the study at any time, without providing a reason. Details of support and advice services were also provided.

As participants were all undergraduate Criminology students, there is, of course, a danger that the views of students may not be representative of the general public. In addition, the majority of participants were aged between 19 and 23. This narrow age range may produce generationally and culturally specific understandings of sexual violence. However, much mock jury research has suggested that participants who are students and those drawn from the general public do not differ significantly or predictably in their decision-making (Temkin and Krahe 2008: 53–4). In addition, while it may be thought that the respondents in the present study would have some awareness of the issues and debates surrounding the academic study of sexual violence, which may have skewed their contributions, the content of the discussions suggest little prior knowledge about male or female sexual victimization.

Each focus group was provided with one of three fictional vignettes designed to encourage discussion of one of the following variables in the context of a male rape trial: complainant failing to resist during an alleged rape (groups 1 and 4), delayed reporting by the complainant to the police (group 2) and an involuntary physical response by the complainant during the alleged rape (group 3). The scenario featuring the first variable was run twice due to the small number of participants (2) in group 1 and it is this 'resistance' variable that will be the focus of this chapter. In summary, the standard information across all of the vignettes featured David and Ian. They met at a party and then went back to David's flat to watch a DVD and talk about football. Ian claims that, when he was getting ready to leave the flat, David restrained him, removed his trousers and raped him. By contrast, David claims that during the evening 'one thing led to another' and they had consensual sex. In line with provisions under the Sexual Offences Act 2003 in England and Wales, each group was directed to decide whether the complainant consented to intercourse and whether the defendant reasonably believed that there was consent. The aims of the research were to explore the effect of each variable, to investigate attitudes towards male sexual victimization and, finally, to analyse how group dynamics and interactions impact upon group discussions (Kitzinger 1994; Frith 2000; Hollander 2004; Finch and Munro 2008). It has been argued that the use of short, fictional scenarios may increase the likelihood of participants relying on rape myth stereotypes to 'fill in the gaps' in the vignette (Finch and Munro 2008: 35). Consequently, these findings should be viewed as exploratory at this stage.

SOME THEMES IN FOCUS GROUP DISCUSSIONS

Expectation of physical injury and resistance

There is a growing body of evidence across many jurisdictions which suggests that, to be seen as credible by others, rape complainants should resist their attackers and show evidence of injury (Estrich 1986; Human Rights Watch 1995: Ch. 7; Temkin and Krahe 2008). In their recent mock jury research on female rape, Ellison and Munro found that 'in trial scenarios in which the complainant displayed no signs of injury, jurors routinely emphasized the significance of this lack of bruising to their not guilty verdicts . . . Their commitment to the belief that a "normal" response to sexual attack would be to struggle physically was, in many cases, unshakeable' (2009a: 206; see also Ellison and Munro in this collection).

Within the current focus group research, groups 1 and 4 examined a vignette in which specific reference was made to the complainant, Ian, not physically resisting David. However, it is evident that there was little substantive difference between the discussions of any of the four groups concerning resistance or physical injury. The resistance/injury issue was one of the most commonly discussed aspects in all focus groups and there was a clearly pronounced belief amongst participants that male victims should resist and show signs of injury. For example, in group 3, the following comments were made: 'With what we have here, like being physically restrained and said he had his trousers pulled down, and I think Ian sort of would rather struggle, David would have known, if he was something and Ian didn't want him to'. Similarly, 'If David had pulled his trousers down, he would have had chance and get away . . . there doesn't seem to be any fight . . . even if David pulled his trousers down he's not fighting back'. Alongside the expectation of complainant resistance, there was an assumption that a male victim would be physically injured as a result of rape. This is illustrated in the following exchange between the two participants in group 1:

A: . . . I think it would be quite interesting to know if there were any bruises to show restraint or something. If someone was about to get raped they're obviously not going to take it lightly, so they are going to fight back, and there would be some sort of marks whether it be scratches or bruises . . .

B: There would have had to have been some sort of physical trauma to Ian's body, if it was a rape.

A: Yes, exactly.

B: Because from what I've read about anal intercourse, it does require some stimulation for it to . . . pass . . . But surely there would have been some sort of bleeding.

This exchange also raised another issue – the linkage of the complainant's credibility with his clothing. As one member of group 3 expressed it:

You would expect that there would have to be some sort of fight. It's not easy to pull someone's trousers down without them wanting to; especially if they had a belt, it would be a difficult thing to do to physically rape someone. There must have been some sort of fight or struggle for him.

This reasoning is akin to that adopted by an Italian court when it was suggested that it was unlikely that a woman could be raped if she was wearing a pair of jeans since 'it is a fact of common experience that it is almost impossible to remove jeans from a person, even in part, without their cooperation, given that this is a difficult operation for the wearer themselves' (Fenton 2000: 715; see also Fenton in this collection). It has long been argued that the female complainant's clothing will be relied upon to suggest that she provoked or contributed to the attack. While our findings suggest that the issue of clothing can also arise in the context of male rape, it must be left to future research to determine whether there are circumstances where men are also deemed to provoke sexual assault through the way they dress.

Arguably paradoxically, for some participants, the claim by Ian that he was restrained by David was actually taken as evidence supporting David's claim that sex was consensual. Such attitudes were illustrated in the following exchange amongst female participants:

A: The thing I can't get over is that he says they did talk about football and one thing led to another and it sounds like a perfectly reasonable thing [for David] to say.

B: Maybe that's why he said it though, because it was a defence.

A: If it was me and I had done this I would be thinking along these lines ... If it was me and I had done this I knew I had physically restrained him.

C: I would have said he said he wanted it rough; he made me hold his hands above his head.

Indeed, one of the above participants went on from here to suggest that the alleged use of restraint actually served to undermine Ian's assertion that the intercourse was non-consensual. In her mind, this claim raised a concern about dishonesty on his part, thereby reducing his perceived credibility: 'If he hadn't just said that I would probably have been more inclined to believe him but the fact he's exaggerating, he restrained me and ripped my trousers off.' Here, the participant 'read in' facts that were not present in the scenario: Ian, the complainant, did not allege that his clothing was 'ripped' off, only that he was 'restrained' and that his trousers were 'removed'. Amongst other things, these quotes illustrate the complexity of judgments regarding credibility. If Ian had indeed had his clothing 'ripped', that might, in fact, be seen to have corroborated his claim of non-consent. However, it is also suggested that any mere claim that it occurred may undermine his credibility because it is perceived to be an exaggeration. Of course, it is worth noting the

limitations of the focus group method in this specific context and the dangers of assuming that such attitudes would operate in an actual male rape trial. For one thing, in an actual trial context the complainant's clothing would most likely be available to jurors to help clarify matters.

Contextualizing the scenario: intoxication, sexuality and positioning

Several different explanatory frameworks were utilized by participants in the focus groups to contextualize the fictional scenario. Of particular interest here are frameworks relating to both intoxication and sexuality. Participants relied on 'positioning devices' – that is, they sought to understand and explain the scenario in terms of their own likely behaviour and experiences. In this regard, our findings support the suggestion from previous research that (mock) jurors make decisions based upon both their 'world knowledge' and subjective experiences (Pennington and Hastie 1986: 254). Throughout all four group discussions, references were commonly made to 'appropriate' behaviour, and to notions of risk and danger that were based on experience. Some participants also drew on knowledge gained from discussion with friends and films such as *American History X*, which included a scene involving a prison rape.

The fact that Ian and David met at a party meant that the issue of intoxication became integral to all the focus group discussions. Participants indicated that alcohol consumption might be a useful explanatory device for understanding the context of the scenario. Reflecting earlier mock jury research involving an intoxicated female complainant (Finch and Munro 2006), the issue of intoxication was interpreted in a variety of ways by participants. Some participants questioned whether a rape could have taken place if Ian had been intoxicated, on the basis that it would be 'pretty damn hard' for David to restrain or control a drunken victim. Meanwhile, others relied on the possibility of Ian's intoxication to explain and defend David's alleged restraint: 'If Ian was so drunk he couldn't stand, David may have thought he was holding him up, rather than physically restraining him.' At the same time, other participants insisted that intoxication on David's part would have increased the likelihood that he mistakenly believed that Ian was consenting to sex: 'From David's point of view, he's consented already by just coming back to his house. From his point of view, because he's drunk, well he's come back he's obviously willing ... I'm in basically.' Meanwhile, others emphasized that, even if David's judgment was impaired by intoxication, this did not provide a justification or mitigation for sexual assault:

We all have responsible for our own actions, whether we're drunk or on drugs. Just because we're drunk doesn't mean, sometimes we do things we wouldn't do normally, but we're responsible for our actions.

The chances are they were both equally drunk but they started sobering up and one started to sober up chances are the other one was getting

there as well. Because there's nothing here that says they continued drinking, besides the point you don't just rape someone because the person is over the limit. You change your mind sometimes, you go to some guy's house you've met, then you go over and decide half way through actually I don't want to continue and they have to stop and if they don't stop then that's rape.

As with intoxication, issues around sexuality were applied in complex ways in each focus group discussion. Participants explored both the complainant's and defendant's sexuality in order to contextualize the fictional scenarios, to explain delayed reporting and to decide whether the belief in consent was reasonable. Rape myths underpinned these discussions in all cases, particularly the belief that 'men who are sexually assaulted by men must be gay' (Chapleau et al. 2008: 603). A significant number of participants struggled, for example, to understand the complainant's decision to go to a man's house without considering the complainant's sexuality. This was apparent in the following exchanges from within two different focus group discussions:

A: It wasn't about football, it was also going back to watch a movie and stuff.

B: But why go if you weren't gay?

C: . . . it just doesn't make sense to me, like if you meet a guy at a party and afterwards he says do you want to come back to my flat and talk about football, it's just not something you do.

D: Assuming of course that Ian says he isn't gay, he's not homosexual, but David it doesn't say anything about his sexuality. So maybe David thought Ian was gay as well and thought he's catching my hint come back to my place sort of thing.

Research examining attitudes to male rape has consistently found that gay male victims of rape are seen as more blameworthy than heterosexual victims (Wakelin and Long 2003; Davies and Rogers 2006). Recent focus group research by Anderson and Doherty found that participants 'project[ed] "subconscious" homosexual desires onto the alleged victim as a way of making sense of and dismissing the rape claim in the vignette' (Anderson and Doherty 2008; Doherty and Anderson 2004). In the current research, the credibility of the complainant's account was considered in relation to his purported sexuality, as well as the group's interpretation of his sexuality. When the complainant was perceived as heterosexual by the group, the rape allegation was more likely to be considered as credible:

But see that's what I don't get, but if Ian definitely wasn't gay then they must have kissed if one thing did lead to another, and then if Ian says he wasn't gay then he would have got freaked out.

So the story does sound a bit more feasible, that he was raped, because he is now insisting that he's not gay but then that's only us believing that he's not gay.

As with the focus group research by Anderson and Doherty, some participants imposed a gay identity upon Ian to explain his behaviour: 'If you weren't gay, you wouldn't go home with a man if you're drunk, unless it's something else like best friends.' Several participants also viewed the allegation of rape as false on the basis that Ian did consent to sex, but later regretted his actions, and one participant argued that a false allegation might be explained by the fact that Ian was a football supporter:

There is a football culture, it's quite lads and quite masculine, I'm probably stereotyping but for someone, masculinity isn't normally associated with homosexuality, so as we were saying, that person just wanted to try it, or if he is gay and he doesn't want people to know, so he's just said he's been raped so really he did consent.

Operating within each of the discussions was a complex network of shared meanings and messages attributed by observers to our conduct towards one another. For example, some participants indicated that, by virtue of agreeing to go to the defendant's house, the complainant was, to some extent, responsible for any resultant sexual victimization:

But that's sort of code isn't it, for going back to do other stuff [laughs]. If you met someone at a party, it's not like you have met someone you know then going to watch a film. If you've met someone at a party and you're going back at midnight to watch a film, if it was just a friendly thing and you've found someone to be your friend, maybe you would arrange to do it in a couple of days or next week, or something.

Positioning was also important here. Judgments around the 'messages' and meanings that could have reasonably been intended and interpreted by the defendant and complainant were considered alongside each participant's own likely behaviour in a similar situation. Where a group member indicated that they had made similar decisions to the complainant, the group as a whole were more likely to accept the credibility of the complainant's account and to conclude that agreeing to go to the defendant's house did not automatically imply sexual consent. On the other hand, some participants insisted that they would not do what the complainant in the scenario had done, and used this to attribute a level of contributory responsibility to him. For example, one participant described Ian's decision to go back to David's flat alone as 'very stupid or very innocent'.

These comments suggest that participants relied to varying degrees on sexual 'scripts' to interpret particular behaviour. Such scripts enable 'subject matter to be explained as incorporating a coherent sequence of events'

(Ellison and Munro 2009b). Through a series of inferences, expectations of normal behaviour and personal experience, many participants repeatedly questioned Ian's claim of non-consent. These discussions were influenced by a range of factors, including Ian going back to David's flat, his lack of resistance and injury, and inferring homosexuality on the part of Ian. In addition, in order to retain the coherence of the consent narrative, some participants suggested that the alleged use of restraint was evidence of exaggeration or fabrication, and/or argued that Ian might have made a false rape claim after the event to retain the image of his masculinity in the eyes of others. Amongst other things, what emerges strikingly out of these focus group discussions, then, is the extent to which reasoning that is normally seen as applying to female rape complainants (e.g. the idea that certain forms of behaviour imply consent) were explicitly also applied to Ian.

SOME POSSIBLE IMPLICATIONS

The initial findings of this focus group research highlight attitudes which rely heavily on myths or misunderstandings regarding the nature of male rape and sexual assault. This research may serve to provide a 'bridge' between negative societal attitudes towards male rape and those exhibited within the criminal justice system. This research suggests that negative attitudes towards male rape in the legal process may partly derive from attitudes in wider society. As Jennifer Temkin and Barbara Krahe have argued in the context of female rape, there is a cyclical relationship in operation here: the treatment of cases by the criminal justice system is influenced by social definitions of 'real rape' and those '[r]ape stereotypes affect the judgments made by individuals dealing with rape cases . . . and thereby shape the understanding of rape as it is represented and dealt with in the criminal justice system' (Temkin and Krahe 2008: 209).

One of the most obvious linkages between the findings in this focus group research and the wider literature on legal responses to male rape concerns the expectation of resistance and injury. There is evidence from the historic, as well as contemporary legal literature, that the notion of male invulnerability to sexual harm has had a detrimental impact on perceptions of male rape complainant credibility. In his examination of legal and social attitudes to male rape in late Imperial China, Sommer found:

the judiciary was highly skeptical that a man could be raped at all . . . Only a powerless male could be penetrated against his will – and the most unambiguous form of male powerlessness was youth . . . there existed a strong judicial bias against accepting an older male as a rape victim.

(2000: 133–4)

In more recent times, the expectation of resistance also extends into the realm of prison rape. In the United States, an inmate named Roderick Johnson sued prison authorities for allegedly failing to protect him from repeated acts of

rape. Prison officials disputed his claims of victimization on questionable grounds:

In pretrial testimony, Jimmy Bowman, another defendant, explained that Mr Johnson's account was not credible because he had failed to resist the men he said raped him. 'Sometimes an inmate has to defend himself', Mr Bowman said. 'We don't expect him not to do anything.'

(Liptak 2005)

In a recent survey examining the attitudes towards male rape that were held by Metropolitan Police officers in England, Abdullah-Kahn found officers who assumed that men would fight back when being raped. Indeed, the research concludes that, often, 'it is difficult for officers to see how an adult male can let himself get into a situation where he can get raped and be unable to physically protect himself' (Abdullah-Kahn 2008: 171). The problem with the expectation of resistance, of course, is that it is a myth which does not recognize the various ways in which male (and female) victims react to rape. Some men do verbally and physically resist their attackers. But there is also a consistent finding within the literature that 'men are either too afraid to resist or fight back, or [freeze] with fear' and that 'contrary to widely held beliefs that "real men fight back", men often do not or cannot fight back' (Abdullah-Kahn 2008: 208). Analysis of male rape trials also indicates that lack of resistance is sometimes used by defence lawyers to attack complainant credibility (Rumney 2001, 2008).

A further link between the focus group discussions and criminal justice responses to male rape can be found in the way in which participants were more likely to question the credibility of Ian if he were gay than if he were heterosexual. While this view does not necessarily rest on homophobic attitudes, and in the focus group discussions there was little evidence of explicit homophobia, it does reflect the fact that homosexuality and credibility concerns are linked in several ways (Rumney 2009). In research involving both police officers and male rape victims, Lees found that 'police officers are more likely to regard the testimony of homosexual victims as "unreliable" – either to assume that the sex was consensual or that the complaint was malicious' (Lees 1997: 94). Likewise, Abdullah-Kahn's recent research with the Metropolitan Police found that some officers made a range of negative assumptions regarding homosexual victims of male rape, including claims that gay male victims were more likely to make false rape allegations, and/or that they would be less traumatized by rape than heterosexual victims (Abdullah-Kahn 2008: Ch. 6).

CONCLUSION

In this chapter, exploratory findings about the extent to which rape myths, stereotypes and misunderstandings might impact on societal attitudes towards

male rape have been presented. In addition, the influence of the complainant's perceived sexuality and level of intoxication upon assessments of his credibility and culpability was also explored. Though an in-depth analysis of the effects of divergent gender compositions within the groups is outside of the scope of the present chapter, it is worth noting briefly here that there do not appear to have been significant differences in attitudes towards Ian or David based on participant gender.

Emerging findings indicate, in line with pre-existing research on both female and male rape, that participants considered the notion of resistance (as measured by physical injury) integral to their decision about the guilt or innocence of the defendant and the credibility of the complainant. Importantly, some participants also considered the complainant's clothing and concluded that clothing would present a physical barrier, which made claims to having been raped without incurring injury less credible. This finding has not emerged from any previous research investigating attitudes towards male rape, and merits further investigation.

There is also evidence that some participants 'added' information that was not present in the vignette to assist in the decision-making process. Participants also used positioning devices to understand and contextualize the vignettes in terms of their own likely behaviour in a similar situation. These discussions focused on the notion of 'reasonable risk' and the complainant's responsibility to consider his own safety. More broadly, some discussions centred on the culpability of the complainant and were victim-blaming in orientation. There was a linkage here with understandings of sexual scripts – in particular shared meanings and messages around sexual behaviour. A significant number of participants indicated that commonly held meanings and messages about the likelihood of a sexual encounter in the circumstances (i.e. agreeing to leave a party to go to a house with one other person) would have impacted upon the behaviour of both the complainant and the defendant. As a result, the complainant was often seen to be either providing unreliable information, or partly responsible for his own subsequent sexual victimization. These findings suggest that the majority of our participants held attitudes that can be located within a positivist victimological framework, in that they were supportive of a victim precipitation model of rape and advocated the idea of personal responsibility as a mechanism for preventing victimization (Wolhuter et al. 2009).

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